

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
AUGUST 7, 2018**

CALL TO ORDER <i>5:59 pm</i>	A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the South Campus Building, 40 11 th Street West, Suite 200, Kalispell, Montana. Board members present were Ole Netteberg, Gina Klempel, and Mark Hash. Cal Dyck and Roger Noble had excused absences. Mark Mussman, Rachel Ezell, and Donna Valade represented the Flathead County Planning & Zoning Office. There were 30 members of the public in attendance.
APPROVAL OF MINUTES <i>6:00 pm</i>	Klempel motioned and Netteberg seconded to approve the May 01, 2018 minutes as written. The motion passed by quorum.
PUBLIC COMMENT <i>(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)</i> <i>6:00 pm</i>	None
CHAIRMAN ADDRESSED APPLICANTS <i>6:00 pm</i>	Hash addressed the public and the applicants present to disclose that there were 3 board members present and it would take all three to make a decision of approval. He gave the applicants the option to stay and have their file heard or postponed until there were more board members present. Herbert and Clear Tower LLC (FCU-18-07) opted to postpone the application. The others wanted to go forward with the hearing.
J&J RANCH (FCU-18-06) <i>6:02 pm</i>	A request from Sands Surveying, Inc., on behalf of J & J Ranch, LLC, for a conditional use permit to establish a 'Camp and Retreat Center' on property located within the Southeast Rural Whitefish Zoning District and the Haskill Basin East Zoning District. The property is located at 1875 Voerman Road and is zoned AG-20 (<i>Agricultural</i>).
STAFF REPORTS <i>6:02 pm</i>	Valade reviewed the Staff Report FCU-18-06 for the board.

**BOARD
QUESTIONS**
6:04 pm

Hash asked Valade what the substance of the phone calls received were about. Valade said that it was to double check what the applicant had planned to do. Nobody had an issue with what was requested with the original application.

Klempel confirmed that the insurance report showed tract 2 and not tract 4. Valade confirmed that information was correct.

**APPLICANT
PRESENTATION**
6:05 pm

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicants. He reviewed the current use of land being a ranch and the intended use of the camp and retreat center. This included putting up glamping tents that would be taken down in the fall and put up in the spring. They also wanted to implement a culinary school to teach others how to cook with local ingredients. This would be open to not only the tenants of the camp but also to the public. In addition to the previously mentioned activities, they would also like to have up to 4 benefit concerts a year and the skjoring event. He said that the owners did not live on the ranch but lived adjacent to the ranch, like their neighbors. He said the applicant tried to pick sites that were favorable to all the neighbors, including themselves, and pointed out the site plan for the concert area and the geology of the land. He also pointed out where the parking would be located and how it would be orchestrated. He said that the events would be no different than the Event at Rebecca Farms which was also on local agricultural land. He also pointed out where the camp structures on site plan would be. He said the owner had previous experience with concerts and events. He said there would be security and direction for the guests. They were also proposing a curfew of 11 pm. He said the camping facility would operate like any other retreat center or “dude ranch”.

**BOARD
QUESTIONS**
6:14 pm

Klempel wondered how much the road to the parking area would be widened. Mulcahy answered that there was an existing road that would be widened to 20’ and that the applicant was looking at laying down recycled asphalt to help preserve that particular area. The emergency egress, that would continue on and up to Edgewood, would be a gravel surface about 14-16’ wide. He confirmed that there would be ingress and egress.

Netteberg questioned if they were going to cross the same muddy field that they did for the skjoring event last year. Mulcahy said the parking would be located in the hayfield after it had been harvested.

**PUBLIC
COMMENT**
6:16 pm

John Phelps, 615 Monegan Rd., spoke in opposition of the application. He was not opposed to the skjoring event because it was a part of the Winter Carnival, which only lasted a couple of days, and was a favored event in the area. He reviewed the history of the zoning in that area. He said the community was primarily agricultural and was quiet and peaceful, with the exception of harvest time. He said that he came across the ad for the Vintage Whites Market, which

was in their zoning district, and called the office to see if it had been permitted. He said that it was unauthorized and unlawfully held at the time without a permit. He said that the activities listed in the application were the type of thing that they were hoping to prevent when they adopted their zoning plan. He pointed out that The Market Beautiful was not included in the application and therefor felt that the application was not trying to legitimize that event but only future events. He also presented materials that showed advertising for wedding events and other events that had been offered for more than a year without compliancy or approval from the county. He said that if the planning office knew only a portion of what the applicant intended to do, while at the same time doing other things, they would not be able to accurately depict the minimal impact. He also wondered how the neighbors would differentiate between the music at a wedding or a concert. He asked the board to look at the worst case scenario and ask if the neighbors really deserved that. He asked that the board deny the application because he felt that it was not presented in full light. He asked if it was approved, that they put restrictions on it (i.e. no concerts). He also expressed concern about property values going down and having to disclose that information. He also read letters from neighbors and highlighted concerns that he had not brought up; including increase of already dangerous traffic and concern of safety. He also submitted a petition that the neighbors had signed in opposition.

Lynn Fawcett, 1800 Foreman Rd., represented her in laws which lived across the road from the hayfield where the parking would take place. She said during The Market Beautiful Event, there was a lot of congested traffic and lack of dust control. She spoke in opposition of the application. She was concerned about parking. She said that last Monday the hayfield was cut and she was concerned that if they waited to have concerts after the hay is cut, the concert events would be condensed to a short time period. She said she believed that the operation was going to be more lucrative than the cattle operation because she had not seen any cattle or horses for over a year. She was concerned about alcohol being allowed on the property and the safety concerns that would correspond with that. She wondered how the county kept tabs on applications staying within compliance. She was also concerned that it would change the rural nature of the area and destroy it.

Richard Turbiak, 14 3rd St E, represented Citizens for a Better Flathead. He asked the board to deny the application. He said the current application did not represent the current commercial activities being held without a Conditional Use Permit. He felt the application should have clarified those, along with the future requested uses and the full impact on their property and the neighbors' property through the AG-20 zone. He also addressed the concert events that the applicant wanted to hold on the property and referenced that it should be considered a high impact recreational facility. It would not be permitted in AG-20 zone as a conditional use. He pointed out what he felt were discrepancies in the application and the staff report, including events that were already being held on

the property and not listed on the application, therefore, the staff report would not be able to identify the full impact that the events would have on the community. He said that it was only the applicant's opinion that the events will have a low impact on the community and immediate neighborhood. He said the application needed more specifics. He pointed out that the application said that the 1-4 concerts would be held from mid to late summer, which meant that the concerts had the potential of being held every couple of weeks or so. He asked that there be more detail given about the type of concerts that would be held so that the true impact on the community could be assessed. He referenced the comparison used to The Events at Rebecca Farms and said that is a one-time event held on a 648 acre property compared to a stage set up on the edge of a 321 acre property, only 123' away from the eastside neighbor. He said that he lived more than a ¼ mile away from Depot Park and he can clearly hear the activities they have there. He stated that the CUP focuses mainly on the Camp and Retreat Center and didn't mention the full current use of the property. The burden of presenting clear and accurate information was on the applicant and not on the Board of Adjustment or on members of the Planning Office. He felt like there were many questions that needed to be clarified further and said the Citizens for a Better Flathead ask that they deny the application.

Nathan Hall, 697 Armory Rd., spoke in opposition of the application. He said that they had recently purchased the home due to location and they wanted a safe and rural location for his family. He was concerned about noise and disturbance, light pollution, dust, and traffic. He said the flea market created a lot of dangerous traffic (i.e. people making U turns on the road). He was also concerned about trash. He was concerned about the potential decline of property values. He had safety concerns due to intoxication, influx of people, trespassing, abuse of livestock, and unsafe environment for the families in the area. He expressed concern regarding the potential amount of traffic trying to leave the concert venue as they leave and noise that would be produced. He said that they had significant concerns about the application because the applicant had not fully disclosed the intended use of the land.

Bill Voermans, 555 Patrick Creek Rd., was the previous owner of the property and was also an owner of an adjacent property and was in favor of the application. He too talked about the history and changes of the properties and said that the zoning proposed in 1996 was solely defeated on a technicality brought up by Phelps. He said that his goal was to always be a good neighbor and he supported land owner's property rights to do with it what they could. He spoke to the good character of the applicant. He felt that the new owner brought new energy and life to the property. He did agree that there may need to be regulations on the decibel levels of the events but that could be communicated and regulated with the owner. He did not want to see the property turn in to a bunch of houses.

**APPLICANT
REBUTTAL
6:52 pm**

Johnny Shockey, 1559 E. Edgewood Dr., the applicant, said that he moved here several years ago and his main goal was to keep the ranch intact. He said that he recognized the need for some type of culture and more events in the area. He said The Market Beautiful was an existing event that had approached him. He did it because he saw the need in our community. He said he looked forward to some clarity on what was allowed (i.e. the skjoring was allowed but was in a grey area). He said that he did not profit from either of those events but did it because he cared about the community. He said at the end of the day, he had a lot of heart in to it. They had remodeled the barns. He stated that he was in the music business and he saw the need for it in the valley. He knew it was not the ideal situation under the circumstances but felt that mentoring kids and helping them understanding music was important; just like sports or anything else. He understood that it would not be without problems but he had a logistics team that handled situations that came up. He said that the largest event he has had was 40,000 tickets and he had no plans on having anything that large. He also addressed the weddings being held and said that his wife had gotten excited and ahead of the game due to the fact that weddings usually booked out a year in advance. They did not realize that it was not a part of the conditional use permit. They hoped to continue them.

Mulcahy said that Johnny had done a good job of explaining his motivation and intent and that his wife had gotten ahead of the curve on some of it; weddings specifically.

Hash interjected that it would be helpful if Mulcahy addressed what events were not included the Conditional Use Permit [i.e. weddings] because there were issues of events brought up that were not included in the application.

Mulcahy said the Conditional Use Permit was a tool, used by Planning and Zoning, and in a particular zoning district to limit and condition the use. Mulcahy also explained the process of how the county dealt with issues of compliancy. He said that he was not aware that weddings had been going on and didn't know if that was something that the applicants wanted to continue or if it should be off the table. He said he was in disagreement with the argument that this particular use was out of character for this particular use for this type of zoning in the county. He used Rebecca Farms as an example, as well as other event venues, that held multiple events on local agricultural land. He pointed out that, with the Conditional Use Permit, the board was able to put side bars on events. He also noted that it was next to the railroad track, which also produced noise throughout the day and night. Overall, he felt like it was something that would fit well in to the neighborhood and pointed out that the events were limited to 4 times a year, plus the skjoring event. He said people would not know the difference between the glamping, the dude ranch portion of it, and any other use [i.e. agricultural use]. He also confirmed that there was still a cattle ranch being operated on the property.

Klempel asked how many people attended the skjoring event. Mulcahy said

that he had been told it was up to 5,000. Klempel also pointed out that there was a letter from the City of Whitefish that was in favor of this application because it took some of the pressure off of Armory Park and Airfield. She said more and more people were coming to visit the valley and there was going to be an impact. She said another alternative was that the property could be split and a subdivision put on it, which she would hate to see that happen.

STAFF
REUBTTAL
7:04 pm

Hash asked the Planning Office to address the comments and concerns that were brought up during the public comment. He said that when he had reviewed the application, he did not see any real impact on the community except the 1-4 concerts and the skjoring but this evening they had heard about wedding and other events. They wanted to hear the staff's thoughts on that. Valade read the regulations for a camp and retreat center. She said that the office was not aware of a lot of these events because they had not been included in the application. The impacts would have been addressed a little differently had they known the scope of the activities, however, those activities were allowed within a Camp and Retreat Center. The regulations were also available online for viewing.

Mussman pointed out that the concert event would be a high impact recreational facility but was included in the application and was a permissible use in a camp and retreat center; therefore, it would not affect the projected impact. He said that the weddings were considered a high impact event and was not disclosed in the application. Mussman said that the weddings were not in the application and therefor would not be a part of the approval. He said that the Zoning Office was made aware of The Market Beautiful event a couple days prior to the event. The code enforcement required a letter be sent out to the violator that gave them 30 days to rectify the violation. In the case of the event, it would have rectified itself since it was a one-time yearly event. The main goal of code enforcement is compliance, and therefore the office would not pursue the normal channels of writing a 30 day letter. He also explained that if a complaint had not been received, then the county was not aware of what was going on. They had not received any complaints about weddings on the property in question until the night of the meeting.

BOARD
DISCUSSION
7:12 pm

Hash asked Mussman what the county would permit if the application was approved.

Mussman said that the approval would include up to 4 outdoor concerts events per year. He said the skjoring would not count against that because it was considered an equestrian event which was allowed in the current zoning. He said that the dude ranch, along the typical activities associated with a dude ranch, would be allowed. He said it would also include the glamping, culinary education experience, and the agricultural related events. The farm to table dinners/events would certainly be included in the application. He said the weddings would not be included and The Market Beautiful was not currently included. They could work their way through coming back and modifying the

conditions to add events like The Market Beautiful (on an annual basis) and Wedding events to the Conditional Use.

Hash asked about the issues regarding both sound and traffic and if Mussman had any advice on how to reduce the impact. Mussman said that the property was in an agricultural area. It had been his experience that there were times where noise was generated by agricultural activity. The issue was *when* that noise was generated. In some parts of the valley it could possibly occur before 7:00 am in the morning and after 11:00 pm. Mussman told the board that they could determine if 11:00 pm would be too late for the concert venue and adjust with conditions. He said that it would be challenging to put a decibel limit from the property line and difficult to enforce it because we did not have the equipment and it was not how codes were enforced. He said Shockey was in the music industry and was aware of the potential negative impact to the property owners so he would yield to his professional expertise, in that regard. He said The Planning Office was unable to go out to a concert to make sure that it was finished at the conditioned time or that the decibel level did not exceed the conditioned level.

Hash asked about traffic issues. Mussman said that he had personally experienced an incredible amount of traffic at the winter carnival when it was at the Whitefish Resort, and therefore, could predict that the real traffic issue will be when the concert ends. He said that people showed up at different times but there would definitely be traffic impact, for a short period of time when the concert ended. Mussman said that it had been mentioned that the skijoring event was a very welcomed activity at that location. He also said, based on the applicant's professional experience, he felt that he could do a good job making sure logistics could be worked out.

Hash asked about the concern regarding alcohol that had been brought up. He asked the applicant if he was planning on serving alcohol, in which Shockey replied yes. Hash asked what Mussman if it would be permitted under the application and Mussman replied that he thought it would be.

Klempel asked the applicant when the concerts were going start and Shockey said it depended on who was playing and said some of the bands have longer set times. There would probably be multiple bands in one event, so it would potentially go from the afternoon to the evening.

Netteberg said Nitty Gritty Dirt Band played locally last weekend and it was a great event for both the locals and the tourists. He said that the estimated attendance of Skijoring event was a little misleading because 5k people were over the course of 2 days. He attended and did not see 5k there all at once. He addressed that there were still conditions that they could put on it but felt they did need to have some sort of numbers to go by.

Hash asked the applicant and the technical representative if they had any ideas on how to restrict sound to address some of the concerns. The applicant said a lot of the events they did were in urban environments where they would get a sound engineer to come in and make sure they are targeting the music towards a certain direction. He said that is why the stage would be directed back in to the hillside with trees all around it because those elements would absorb sound. He said there would be obvious bleed over but it could be minimal.

Hash asked if there was something concrete that they could put in as a condition to help appease the neighbors so it would not be as intrusive as they think it might be. Shockey said he felt the 11:00 pm curfew was the safe bet. He said that bands may be apprehensive to play if they don't think they could play in some type of darkness. He said that 10:00 pm, in the middle of summertime, still has daylight. He said that the bands being able to play 30-40 minutes in the dark with a light show would make a big difference. He said that they could talk about a decibel limit from the property line that they could monitor. He said he was open to suggestions. He wanted to be a good neighbor and not have a huge impact on the neighborhood.

Hash asked if he would be willing to reduce the number of events from 4 to something less. Shockey said he felt it was difficult to think about staging and production if they were unable to monetize over a few events. He said it would be difficult to make it worth the while and that he was thinking 4 would be his minimal number. Hash said he had put down 1 to 4 and clarified that Shockey was thinking 4. Shockey said eventually it would be 4. He said when he thought of next summer, he had to think about what would make sense logistically because he had to bring in a team. He said it would have to financially make sense.

Hash asked Shockey about serving alcohol and the concerns associated with that and how he was going to control that. Shockey said that in past events he had Uber pickups and drops off available. He educated people and had personal relationships with the Uber, giving them notice 6 months in advance, so that they could reach out to people and start signing them up. He said that they also used a catering company that specialized in large scale events that handled all the alcohol. Hash asked if he was talking about doing it all year long. Shockey said that these were things that he already had in place with all that he does. He said that was how it was done whether he does one or four.

Hash said that they had a difficult decision to make because it was obvious to him, and the board, that it was going to have an impact on the neighborhood. They were trying to figure out if they could do something that was going to have compromise and as little impact as possible. He was not hearing anything from the applicant that was going to try to help them make that compromise. Mulcahy rebutted that Shockey had mentioned he had sound engineers that he worked with, and they could require that a sound engineer be brought in for

each project so that the sound could be directed down to the audience area; which was to the north and northwest. He said the background would be an edge and a forested area. He also said the backstop would be the elevated railroad crossing, which goes across the southern pasture. Hash asked if the exact location was covered in the application and Mulcahy replied it was.

Hash asked Mulcahy if he had any thoughts on the traffic. Mulcahy answered that they could have traffic control, which he believed was mentioned in the application. They would have people directing people where to park so that they would park in the right spot. They would direct them back out on to the road. He said that they could also create a break after every "10 cars" to allow neighbors to be able to get out if needed.

Hash asked Phelps what some of his thoughts were because he had brought up some good points. Phelps said he thought leaving the concert promoter in charge of the decisions was like leaving the "fox in charge of the hen house". He said the neighbors would be left with no protection and he would be totally in charge. He suggested a standard where the music would be mild enough that it would not be heard on the neighboring properties. He said he knew people liked to turn the volume up but they didn't have to. Phelps said the board did not have to give the applicant what he wanted. He said he was surprised by what he was hearing because it seemed there was a real effort to give the applicant everything he wanted and the neighbors got "crumbs". He felt he was wasting his time.

**BOARD
DISCUSSION
7:33 PM**

Hash asked the board what their thoughts were.

Klempel felt that the concerts should be limited to two. She also said she had a real concern with the alcohol. She said that it could get pretty crazy at 11:00 pm out in the country. She asked if Shockey could forget about serving alcohol. She also asked what state regulations were and if there was a special catering license that had to be acquired.

Netteberg pointed out that the concerts were there to make money. The money was not made off ticket sales alone, but also band merchandise and alcohol. He said he was not one who drank but he acknowledged that it went along with that type of venue.

Klempel asked Mussman if alcohol was served at Rebecca Farm Events. Mussman said that he did not know.

Hash said he did not feel comfortable with the application as it was, at the same time, he didn't want to totally deny it. He replied to Phelps' comment earlier and said that they did care about the neighbors. He wanted to try to make it work and was willing to approve it if they could come up with the conditions.

He heard the concerns brought up by the public and said the main issue with a conditional use permit was how it affected the neighbors and if the use fit in the area. Hash said he would like to work out some type of compromise. He pointed out that the applicant would not just be making money off of the concerts but also with the other things mentioned in the application. Hash agreed with Klempel in wanting to limit the concerts. He also agreed with the Planning Office in regards to what the applicant was allowed to do based on the application. He wanted to see traffic control in place. He also agreed with the language that Mulcahy had used in sound control. He said that the valley was changing, and although he didn't like it and preferred the rural agriculture environment, the board had difficult decisions to make to accommodate for the growth and change. He said he was willing to approve with the said conditions put on it.

Klempel said she would rather see it as a working ranch. She said that the proposed use did not totally echo a working ranch. At the end of the day, she would rather see that than more houses. She said that once an owner builds a house on it, there is no control over the property. She said she wanted to see if they could make it work.

They discussed the conditions and exact verbiage that they wanted to add.

Hash reiterated to the applicant that they were willing to accept the application because it had a narrow interpretation of what was being asked for and what would be permitted, along with the conditions that were to be added.

**MOTION TO
ADOPT F.O.F
FCU-18-06
7:40**

Klempel made a motion, seconded by Netteberg, to accept Staff Report FCU-18-06 as Findings-of-Fact.

**BOARD
DISCUSSION
7:40 PM**

None

**ROLL CALL TO
ADOPT F.O.F
FCU-18-06
7:40 pm**

Motion passed by quorum.

**BOARD
DISCUSSION
7:40 PM**

Netteberg asked the staff what would happen if there were a complaint (i.e. regarding sound). Mussman went through the protocol of when the office receives a complaint. He also said that a CUP permit becomes the zoning use for that property, so any violation of a condition, would be a violation of the total approval. He said it would be difficult to investigate if it was the last concert of the year, but the property owner would be notified so that it could be mitigated. He also said that if an unpermitted event occurred, then that would also be a violation, and they would ask for compliance. Compliancy could look like either stopping the activity or coming back and modifying the permit request. The latter would require a public hearing.

**MOTION TO
APPROVE
FCU-18-06
WITH ADDED
CONDITIONS
7:43 pm**

A motion was made by Netteberg, seconded by Klempel, to approve the conditional use permit FCU-18-06 with the addition of three conditions as read.

12. A sound engineer will target the sound from each concert to the audience to minimize sound bleed over to neighboring properties.

13. Traffic control will be in place to assure orderly exiting from the property after events and to monitor pedestrian traffic to minimize impacts to the neighbors.

14. Concert events shall be limited to two events per year.

**BOARD
DISCUSSION
7:44 PM**

None

**ROLL CALL TO
APPROVE
FCU-18-06
WITH ADDED
CONDITIONS
7:44 PM**

The motion passed unanimously on a roll call vote.

**RIDGELINE
CAPITAL, LLC
(APPEAL 18-01)
7:46 pm**

An appeal by Bill Tanner on behalf of Ridgeline Capital, LLC regarding interpretations of the Flathead County Zoning Regulations (FCZR) made by the Zoning Administrator that the signage for storage units violates the Rosewater PUD overlay.

**BOARD MEMBER
DISCLOSURE
7:47 pm**

Klempel made a disclosure that she had past business dealings with Tanner but she had no personal or financial interest in the appeal.

STAFF REPORTS**7:47 pm**

Mussman reviewed the Staff Report Appeal 18-01 for the board.

**BOARD
QUESTIONS****7:51 pm**

Klempel questioned if the terminology “exclusive” or “solely” was used in regards to the storage units being only for the residents of the subdivision. She asked for clarification, if he took the sign down, he could put an ad in something like the Mountain Trader? She agreed that the storage units should be primarily used for the lots. She confirmed that if the home owners did not have access to a unit, it would be a civil matter. Mussman said that was correct. He said we were not going to get involved in HOA matters. He also said they were not going to monitor ads in papers.

Netteberg asked how many lots vs. how many storage units there were. Tanner replied there were 58 lots and 50 storage units. Netteberg asked if he was going to build more storage units and Tanner replied that he was limited to 50.

Mussman said that the storage units and their location were identified throughout the PUD and subdivision process. He said the PUD that the storage units were for Rosewater residents. It went through the approval process. The most affected neighbors were leery of a storage unit being there but realized it was for the Rosewater residents. Now there was a sign advertising it for public use. Mussman said that the verbiage did not say exclusively and that is why Tanner wants to use things such as The Beacon to advertise but he was not permitted to use a big sign. Mussman said that he would be allowed to have a large sign that said Rosewater Storage Units but no phone number would be allowed because it would then be like a commercial storage unit.

**APPLICANT
PRESENTATION****7:59 pm**

Bill Tanner, 688 Echo Lake Rd., said that he stood before the board a couple of years ago with an idea of what he wanted to develop on Rose Crossing. Several years later it was developed and he was very proud of it. He also said he had always had a good experience with the staff at the Planning and Zoning Office. He said after Mussman had brought up the issues of the signs, he complied and took them down. From day one, he always had the storage units as a part of the development plan. The development had 58 lots; 12 town houses and 46 single family resident houses. They were larger lots but could not accommodate for everything so they built the storage units so that the homeowners could rent and utilize. At this point and time, they had sold 17 lots and had 5 lot owners who were renting storage units. He said they were designated for the home owners first but he didn’t want to leave them vacant. Throughout the whole development process, never once was it talked about being exclusively for lot owners and if it had been presented as being for lot owners only, he would not have wanted to do it. He said it would not be economically feasible. His desire was to give the lot owner’s priority but not exclusively. He felt that he should have the right to rent them out. He read clause 13 to show that it was never

intended to be for just lot owners. They were created in a way that would be an asset to the area. He intended it to be commercial in nature. He asked that the board support the appeal so that he could advertise the units and he would continue to give home owner's priority.

**BOARD
QUESTIONS
8:04 pm**

Klempel asked if his phone number was the one listed on the sign in question. Tanner said that it was not, he had a separate phone number for that.

**STAFF
REBUTTAL
8:05 pm**

Mussman said that a real estate sign advertising a property for sale was an exempt sign. Tanner asked about a for rent sign. Mussman said that property differed from commercial.

**PUBLIC
COMMENT
8:06 PM**

Hash said that there was no need for public comment because the board was looking specifically at the language used in the appeal vs. the permit but he acknowledged the gentleman had been waiting a long time so he allowed him to share his comment.

Don Burton, 2223 Whitefish Stage Rd., said he had followed this process from the get go. He said that he had even thought about renting them if they were opened up to the public. He was in favor of what Tanner was proposing. He said that he didn't see anything wrong with the signs on the side of the building or the signs on the road.

**BOARD
DISCUSSION
8:08 pm**

Hash asked Mussman if he had anything else to add. Mussman said that the reason this was brought to his attention was that there was a complaint received regarding the sign saying that it was for rent and also the sandwich board that was close to the road. Tanner did take the sign down. He said that the Planning Office discussed the PUD, which did not say exclusively for Rosewater Lot owners, so whoever's stuff was *actually* in the storage units did not make a difference. The issue was advertising it as a public storage unit, which was what the complaint received by the office was about.

Hash said they were specifically looking at the language. He read the PUD and said his interpretation was that it was meant for lot owner's only. His said that there was a little vagueness in there and he felt that the planning office was giving him a lot by allowing him to advertise and use it, excluding the signage. His interpretation was that it was meant strictly for the lot owner's and would limit it even further than Planning and Zoning was going to.

Tanner recounted the process that he had been through and Hash reminded him that they were only looking at the verbiage used and didn't get to look at the

process. Hash said he was not arguing that it was never intended to be exclusive; he was looking specifically at the words that said “for Rosewater lot owners”. Hash understood where Tanner was coming from and wished that it was cleaner. By putting an advertising sign on the building, it would make it be for commercial use. He said that Mussman was giving him a good compromise by allowing advertising in the Mountain Trader.

Tanner said that he wanted the issue put to bed because the road was becoming a commercial street. Hash pointed out that Planning and Zoning was allowing him to advertise, contrary to what he thought, to use it commercially. Tanner said that the issue of ownership was not a part of the HOA but they were appeasing them by allowing them first “crack” at them but it was a commercial facility. Hash said that he understood what he was saying but he was reading the specific verbiage used. Hash said that it was clear to him that it was privately used for Rosewater lot owners. Tanner said that he was in disagreement with Hash and he thought Mussman might be too. Mussman said that he was not necessarily in disagreement but he could not make the jump to say exclusive. They discussed in more length the definition of the verbiage used and the definition of exclusive and whether or not it was for the lot owners.

Netteberg said that he read it as for the Rosewater lot owners but he was not opposed to them advertising, just not on the building.

Klempel wanted to clarify that they were really just talking about taking the sign down because there was no way of monitoring all the different types of advertising. Hash said that they agreed with Mussman’s decision to deny the appeal.

Tanner asked if he could put a temporary sign up. Hash said that he felt like it was meant to be exclusively for the lot owner’s and that what has been decided by Planning and Zoning was really a gift. Tanner asked again if a temporary sign would be allowed. Mussman said no because it was the commercial side of things.

Netteberg made a motion seconded by Hash to deny the appeal.

**MOTION TO
DENY
APPEAL 18-01
8:18 pm**

**ROLL CALL TO
DENY
APPEAL 18-01
8:18 pm**

On a roll call vote, the motion failed 2-1 with Klempel dissenting.

**BOARD
DISCUSSION
8:19 PM**

Klempel asked for clarification as to whether or not it was Tanner's appeal or Mussman's. It was clarified that Tanner was appealing. She asked that they vote again.

**MOTION TO
RECONSIDER
THE VOTE
8:20 pm**

Klempel made a motion, seconded by Netteberg, to reconsider the vote approving or denying the appeal.

**ROLL CALL TO
RECONSIDER
THE VOTE
8:20 pm**

On a roll call vote, the motion passed unanimously.

**BOARD
DISCUSSION
8:22 PM**

Tanner reiterated his appeal and frustration at the interpretation of semantics. Hash reiterated what was allowed was really a gift due to the verbiage in the PUD. The board and staff discussed what would be allowed even further.

**MOTION TO
APPROVE
APPEAL 18-01
8:25 pm**

Klempel motioned to approve Appeal 18-01 but was not seconded. Motioned died for lack of second.

**FURTHER
DISCUSSION
8:25 pm**

The board, staff, and appellant further discussed what type of advertising was allowed and what was not. Mussman also mentioned that the applicant could amend the PUD.

**OLD BUSINESS
8:27 pm**

None

**NEW BUSINESS
8:27 pm**

None

**MEETING
ADJOURNED**
8:29 pm

The meeting was adjourned on a motion by Netteberg and Klempel at approximately 8:03 pm. The next meeting will be held on September 04, 2018.



Mark Hash, Chairman

Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED 9/4/2018